

REMARKS

Upon entry of this Amendment, claims 1, 3-8, 10, 12-15 remain in the Application. Claims 7, 8 and 15 are allowed. Claims 5 and 14 are currently objected to. Claims 1 and 6 currently stand amended. The Office Action of September 24, 2007 has been received and carefully considered. In response thereto, this Amendment is submitted. It is submitted that, by this Amendment, all bases of rejection and objection are traversed and overcome. Reconsideration is, therefore, respectfully requested.

The Applicants thank the Examiner for notification of allowable subject matter in claims 5 and 14 as well as the notification that claims 7, 8, and 15 are allowed.

Claims 1, 3, 4, 6, 10, 12, and 13 currently stand rejected under 35 U.S.C. § 102(b) as being anticipated by GB 449860A (GB '860). The Examiner indicates that GB '860 shows an amphibious vehicle that is adapted for use in a land mode or a marine mode. The vehicle disclosed in GB '860 is held to have moveable side flaps 18 that are considered to be "trim tabs". The Examiner indicates that the claims do not recite any specific structure of the "trim tab", and that, in the absence of any specific structural characterization, the limitation "trim tab" has been broadly interpreted to mean "a tab for the purpose of trimming". The Examiner takes this to include any such component that is capable of adjusting the attitude/orientation of the vehicle axes—transverse or longitudinal—relative to its motion. The Examiner observes that the flaps 18 would influence the attitude/orientation of the amphibious vehicle when it is in the marine mode.

The *Prima facie* Elements for Rejection Under 102(b) Have Not Been Met

The Applicant respectfully submits that the term "trim" and the term "trim tab" have meanings that would be known to the skilled artisan. The side flaps 18 in the GB '860 reference are not trim tabs and do not anticipate such.

Attention is directed to the reference "Trim Tabs—An Explanation" found at www.boatsafe.com, attached to this Amendment as Attachment A. As can be seen from that reference, a marine vehicle has three axes of motion as it travels through the water: yaw, pitch,

and roll. Trim tabs have little effect on the yaw axis because yaw is controlled by the rudder or the side to side movement of the out drive. Trim tabs are effective in the roll axis to eliminate or reduce listing or healing, and in the pitch axis to raise or lower the boat. It can be readily appreciated that the side flaps 18 in GB '860 lack the position or orientation to control either roll or pitch axis.

Further attention is directed to the nautical dictionary at www.seatalk.info, also attached hereto as Attachment B, in which the term "trim tab" is defined as moveable plates mounted *under* the transom of a fast boat that can be adjusted to help the boat plane with better trim. Clearly, the side flaps are not mounted under the transom or other appropriate structural areas of the marine vehicle in GB '860. It is respectfully submitted that the side flaps are not synonymous with trim tabs and as such the Examiner has failed to present a *prima facie* case of anticipation under the provisions of 35 U.S.C. § 102(b).

Assuming arguendo that the side flaps 18 are considered synonymous with the trim tabs, it should be noted that side flaps 18 of GB '860 are capable only of lateral movement. Indeed, the side flaps 18 disclosed in GB '860 are defined as moving in unison, i.e., being pivoted outwardly together or inwardly together, and thus cannot have any effect on either trim or steering of the vehicle. Reference is made to page 3, lines 96 and 97, which states "the portions 18 of the covering can be extended and drawn together by means of any convenient actuating system." A suitable mechanism for such actuation is shown in Fig. 6 and described in the passage on page 3, lines 100-109. It is clear from this disclosure that the mechanism moves the two side flaps 18 in unison. Neither portion can be moved independently of the other, nor can it be moved at a different rate relative to the other. For these reasons, it is submitted that the side flaps 18 can have no effect on either the trim or the steering of the vehicle. Additionally, the side flaps 18 of GB '860 are actually part of the rear covering that is used for floatation purposes and as a preferred seating area for passengers or goods. Thus, the mechanism lacks any structure that would permit it to function as a trim tab.

Claim 1 has been amended to more clearly define the invention set forth therein. It is submitted that claim 1 is not taught, anticipated, or rendered obvious by the cited reference for the reasons set forth.

Claims 3 and 4 depend from claim 1 to contain all of the limitations found therein.

Claim 6 has been amended by this action to specify that the at least one trim tab is connected to the vehicle body at a location proximate to a transom section and wherein each trim tab is independently moveable relative to the vehicle body. It is respectfully submitted that the GB '860 reference lacks any teaching or suggestion of connection of a trim tab proximate to a transom section. Furthermore, it is submitted that GB '860 lacks any teaching or suggestion of the independent movement of trim tabs relative to one another. For these reasons and for the reasons outlined previously, it is submitted that the Applicants' invention as set forth in claim 6 is not taught, anticipated, or rendered obvious by the cited reference.

Claim 10 is directed to a method for controlling an amphibious vehicle trim tab system including the steps outlined therein. The method includes automatically moving at least one trim tab into either a retracted position or into any one of a range of operational positions according to a mode change event that has been detected. As indicated previously, it is submitted that GB '860 lacks any teaching or suggestion of a marine vehicle having trim tabs. Thus, the Examiner has failed to demonstrate a *prima facie* case for anticipation based upon the teaching of GB '860. It should also be noted that the method set forth in claim 10 specifies automatically moving *at least one trim tab*. It is respectfully submitted that GB '860 lacks any teaching or suggestion of independent movement of a side flap elements 18. Thus, it is submitted that the Applicants' invention as set forth in claim 10 is not taught, anticipated, or rendered obvious by GB '860.

Claims 12 and 13 also stand rejected as being anticipated under 35 U.S.C. § 102(b) by the teaching of GB '860. It is submitted that the Examiner has failed to demonstrate a *prima facie* case for anticipation under the provisions of 35 U.S.C. § 102(b) in either claims 12 or 13 as GB '860 fails to teach or suggest trim tabs.

In summary, claims 1 and 6 have been amended by this action. Analysis has been presented as to why the Applicants' invention as set forth in claims 1, 3, 4, 6, 10, 12, and 13 is not anticipated under the provisions of 35 U.S.C. § 102(b) by GB '860. Thus, it is submitted that the Applicants' invention as set forth in claims 1, 3-8, 10 and 12-15 is not taught, anticipated, or rendered obvious by the cited reference.

It is respectfully submitted that the Applicants' invention as set forth in these claims is in a condition suitable for allowance. Notice of allowance is, therefore, respectfully requested.

Respectfully submitted,



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